1944. **File No.** B. Growth of Foodcrops/44

Legal Department

B **BRANCH**

Subject:—

The Bombay Growth of Foodcrops Bill, 1944

A bill to provide for regulating the cultivation of crops with a view to growing more foodcrops in the Provinca of Bombay.

Governa's Bill No. XIII of 1944.

Bombay Act No. XIII of 1944.

E
Page 6
1944

File No. B. Growth of Foodcrops/44.

Gen. 191 e.

386-B

Office of the R.L.A.

The draft Bill at pages 28 to 31 b ante was settled in great hurry and is necessarily tentative. It has not been scrutinized again from the drafting point of view at this stage since very little time is left to R.L.A. It will need further detailed scrutiny at a later stage. For instance in view of the definition of "cultivator" in clause 2(1) as including a joint family and a company, it would be necessary to provide how offences by a joint family or a company are to be regarded for purposes of selecting the accused person for a criminal trial. Some provision on the lines of rule 122 of the Defence of India Rules may be necessary.

2. The Statement, as slightly amended in pencil, is in order.

3. The subject matter of the Bill falls under entries 20,21,27,29,39,19 read with 54 and 37 and of the Provincial Legislative List and entry 2 of the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935. The Bill contains no provision which is repugnant to any existing Indian Law relating to any concurrent subject. It does not therefore require reservation under section 107(2) of the Government of India Act and paragraph (2) of the Proclamation.

Id/-
P.N.M.
22/3/44

Remembrancer of Legal Affairs.

U.R. to Secy. R.D., No. 114-Confl. dated 22.3.1944.

Office of the Governor's Secretary.

IMMEDIATE.

With reference to the last sentence of this office/unofficial reference No.201(106) dated the 28th April 1944, regarding the Bombay Growth of Foodcrops Bill, 1944, thefollowing comments by the Secretariat of the Governor-General (Public) are forwarded to R.D. for further action :

(1) Sub-clauses (2) and (3) of clause 1 should be combined as follows -

> " (2)It extends to the Province of Bombay, but shall come into force in any area thereof only as such date as the Provincial Government may by notification in the official Gazette appoint in this behalf for that area".

(2)In clause 3,4 and 5 the words "in any year commencing f from the date of the order" need revision since there can be only one year commencing from a particular date. "In the twelve months immediately following the date of the order and in every succeeding twelve months" might be better.

(3) There is also some objection to clause 8. To the extent that it would seek to cause the Bill to prevail over Federal Laws in matters relating to the Concurrent Legislative L List, it would not avail against section 107(1) of the Constitution Act; and the Bill has not been reserved under section 107(2). The clause seems otiose and might be omitted.

Sd/-
For Secretary to Governor of Bombay.

U.R. to R.D. No. 201(106) , dated 3rd May 1944.

Office of the R.L.A.

It is proposed to amend clauses 9 and 10 of the Bombay Growth of Foodcrops Bill furnished to the R.D. with this office u.r. No. 114-Confl. dated the 22nd March 1944. Clause 9 of the Bill, as it stands, makes it obligatory upon the Provincial Government to purchase such cereal foodcrops grown in any cultivator's holding in respect of which an order is issued under section 3 or 4 as the cultivator offers to sell to it at a price fixed by Government. It is now stated that as in addition to foodcrops purchased by Government under section 9, they will also be purchasing quantities of foodcrops in pursuance of levy orders issued under rule 81 of the Defence of India Rules, a provisions to that effect should be incorporated in clause of the Bill. It does not appear that any amendment of section 9 is necessary in respect of the foodcrops to be purchased by Government in purauance of levy orders issued under rule 81 of the Defence of India Rules. This levy will be altogether under a different provision of law and would not in any way affect the liability of Government to purchase foodcrops under clause 9 of the Bill. Nor would the levy orders be in any way abrogated by the present clause 9 in view of section 3 of the Defence of India Act, 1939, read with section 102(2) of the Government of India Act, 1935.

2. Amendment of clause 10.- Sub-clause (3) proposed to be added to clause 10 by R.D. at page 85 is not suitable. The administrative aspects of fixing rents under the proposed sub-clause (3) have not been fully considered by R.D. and instructions for drafting are not sufficient, the R.D. draft suggests revising existing rents of all tenants affected by the order under clause 4 of the Bill. Is it not rather intended

to revise rents of all lands held by tenants in which scheduled foodxx crops are required to be grown under clause 4(a) (without affecting existing rents of the lands where scheduled non-foodcrops or other crops may be grown, or of the lands belonging to the affected tenant but falling outside the area to which the order under clause 4 applies ? Next as to procedure is it intended that the Mamlatdar and subJudge should act suo motu in revising all rents or that an application from either the landlord or tenant should commence the proceedings ? In the former case, will the courts have all the details available to in the latter case, is any time limit for applications necessary, and is any period to be fixed in respect of which the rent determined is to have force ? Evidently an order under clause 4 of the Bill will be seasonal or annual and it is reasonable that the rent as revised should have force in respect of the season or year concerned. In that case section 12(9) of the Tenancy Act would be inapplicable, and the reference to section 12 in the proposed R.D. draft will have to be modified. After R.D. has examined all administrative details, a draft may be sent for R.L.A's scrutiy scrutiny. It may also be pointed out to R.D. that the proposed legislation should not conflict with other enactments providing for fixation of rents; else there would be legal ineptitude and administrative confusion. The non-obstante clause can have relevance only in one enactment, but would stullify itself if introduced in numerous enactments on the self-same subject of rent fixation. In this connection R.D.'s attention is invited to the provisions of rent fixation in the Bombay Tenancy Act, 1939, the Bombay Land Improvement Schemes Act, 1942 and the Irrigated crop Cultivation Bill which is pending

Id/-
P.N.M.
8/5/44

Remembrancer of Legal Affairs.

U.R. to R.D. No. 3345 dated the 6th May 1944.

No. 3649
Legal Department.
Bombay Castle, 20th May 1944.

From

P.N.Moos, Esquire, Bar-at-law, I.C.S.
Secretary to the Government of Bombay

To

The Secretary to the Governor of Bombay.

Subject :- The Bombay Growth of Foodcrops Bill, 1944.

Sir,

With reference to your memorandum No. 201(106) dated the 3rd May 1944 addressed to the Revenue Department on the above subject, I am directed to forward herewith for the assent of His Excellency the Governor a copy of the Bombay Growth of Foodcrops Bill, 1944, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939 issued by the under section 93 of the Government of India Act, 1935.

2. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause (a), (b), (c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject matter of the Bill falls under entries 20,21,27 29,37 and 39 of the Provincial Legislative List and entry 2 of the Concurrent Legislative List in the Seventh Schedule to the - Government of India Act, 1935. As the Bill does not contain any provision repugnant to any existing Indian Law relating to any matter in the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935, it is not necessary to reserve it for the consideration of the Governor-General with reference to section 107(2) of the Government of India Act or paragraph (2) of the Proclamation.

4. The date on which H,s Excellency the Governor(s assent is given may kindly the entered in the dm endorsement.

5. I also forward herewith one spare copy of the Bill.

Yours obedient servant.

Sd/- P.N.M.
20-5-44

Secretary to Government of Bombay.

Through The Secy to Govt. R.D

No. 201(106).
Office of the Governor's Secretary
Government House,
Bombay, 20th May 1944.

From

D.Symington,Esquire, C.I.E., I,C.S.
Secretary to the Governor Of Bombay.

To

The Secretary to Government,
Legal Department, Bombay.

Subject :- The Bombay Growth of Food Crops Bill, 1944.

Sir,

I am directed to forward herewith a copy of the Bombay Growth of Food Crops Bill, 1944, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, and to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

Your obedient servant,

Sd/-
Secretary to the Governor of Bombay.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 3650
Bombay Castle, 20th May 1944.

Letter to the Secretary to the Governor No. 3649, dated the 20th May 1944.

Letter from the Secretary to the Governor, No. 201 (106) , dated the 20th May 1944.

I am directed to forward herewith a copy of the Bombay Growth of Foodcrops Bill, 1944, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, and to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty ."

Resolution.- The law should be published as Bombay Act No. VIII of 1944 in the Bombay Government Gazette dated the 20th May 1944.

2. The Act should be translated into Marathi,Gujarati, Kannada and Hindustani (in Urdu and Devanagari Scripts) and the translat ons should be published in the Bombay Government Gazette.

3. A copy of the Act-should be forwarded to the Revenue Department.

By order of the Governor of Bombay.

P.N.Moos,

Secretary to Government.

To

The Manager, Government Central, Press, Bombay (with a copy of the Act and with a request that 15 gazette copies of the A ct may be forwarded to the Legal Department).
The Revenue Department.
*The Oriental Translator to Government.) with a
The Secretary to the Bombay Legislative Council.) copy
The Secretary to the Bombay Legislative Assembly.) of the
) A ct.

*With five extra copies.

S.C. 13/7
4 copies.

Registered No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

SATURDAY, 20TH MAY 1944.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

CONTENTS.

PAGES

BOMBAY ACT No. VIII OF 1944—An Act to provide for regulating the cultivation of crops with a view to growing more foodcrops in the Province of Bombay 122-125

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 20th May 1944 is hereby published for general information.

P. N. MOOS,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. VIII OF 1944.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 20th May 1944.)

An Act to provide for regulating the cultivation of crops with a view to growing more foodcrops in the Province of Bombay.

WHEREAS it is expedient to provide for regulating the cultivation of crops with a view to growing more foodcrops in the Province of Bombay;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

5 Geo. 5. Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Growth of Foodcrops Act, 1944.

(2) It extends to the whole of the Province of Bombay, but shall come into force in any area thereof only on such date as the Provincial Government may by notification in the Official Gazette appoint in this behalf for that area.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) "cultivator" means a person who is actually in possession of agricultural land whether as an occupant, tenant or otherwise and includes a company and a joint family or a group of persons in joint actual possession;

(*2*) "cultivator's holding" means the aggregate of all lands in the actual possession of a cultivator;

(*3*) "scheduled foodcrop" means a crop specified in Schedule I;

(*4*) "scheduled non-foodcrop" means a crop specified in Schedule II;

(*5*) Words and expressions used in this Act but not defined shall have the same meaning as in the Bombay Land Revenue Code, 1879. Bom. V of 1879.

Powers to prescribe maintenance of existing proportion of growing foodcrops.

3. The Provincial Government may by an order published in the Official Gazette and in such other manner as it may consider expedient direct that in any specified area every cultivator shall grow scheduled foodcrops in such area of his holding in the twelve months immediately following the date of the order as bears to the total area of his holding a proportion not less than that which the area of such crops grown by him in the twelve months previous to the date of the order bore to the total area of his then holding:

Provided that where a cultivator had no holding in the twelve months previous to the date of the order or where information regarding the area of the scheduled foodcrops grown in a cultivator's holding during the said twelve months is not available, the proportion for the purposes of this section shall be deemed to be such as may be fixed in the order.

Explanation.- Where a scheduled foodcrop is grown as a mixed crop with any crop other than a scheduled foodcrop, the area under such scheduled foodcrop shall, for the purposes of this section, be deemed to be not more than 1/4 of the total area under such mixed crop.

Power to prescribe maximum proportion of non-foodcrops and minimum proportion of foodcrops to be grown.

4. If the Provincial Government is satisfied that it is necessary in the interests of the Province to increase the production of scheduled foodcrops in any local area, it may by an order published in the Official Gazette and in such other manner as it may consider expedient—

(*a*) prescribe the minimum proportion of the cultivator's holding in which scheduled foodcrops shall be grown after the date of the order in any cultivator's holding in that area during the twelve months immediately following the date of the order;

(*b*) prescribe the proportion in excess of which scheduled non-foodcrops shall not be grown after the date of the order in any cultivator's holding in that area during the twelve months immediately following the date of the order.

Explanation.—Where a scheduled foodcrop is grown as a mixed crop with any crop other than a scheduled foodcrop, the area under such scheduled foodcrop shall, for the

purposes of this section, be deemed to be not more than 1/4 of the total area under such mixed crop.

Power to prohibit growing of non-food-crops in successive years.

5. The Provincial Government may by an order published in the Official Gazette and in such other manner as it may consider expedient direct that in any area specified in the order scheduled non-foodcrops shall not be grown after the date of the order in that part of a cultivator's holding in which they were grown in the previous twelve months.

Power to rescind or amend orders.

6. The Provincial Government may add to, amend, vary or rescind any order issued under section 3, 4 or 5 if in its opinion the circumstances of a season or any other reasons make this desirable.

Power to exempt.

7. The Provincial Government may wholly or partially exempt any cultivator's holding or class of such holdings from any or all the provisions of this Act or any order made thereunder.

Effect of orders inconsistent with contracts to the contrary.

8. An order issued under section 3, 4, 5 or 6 shall have effect notwithstanding any contract to the contrary between the cultivator and any other person interested in the agricultural land affected by such order.

Fixation and guarantee of prices of foodcrops.

9. The Provincial Government shall, by an order published in the Official Gazette and in such other manner as it may consider expedient, fix and guarantee prices for all cereal foodcrops grown in any cultivator's holding in each of the areas in respect of which an order under section 3 or 4 is issued.

Reduction of revenue or irrigation dues and rent.

10. (*1*) The Provincial Government may remit any part of land revenue or irrigation dues if in its opinion it is necessary to do so in respect of any area to which an order under section 4 applies.

(*2*) Whenever remission is granted in any area under sub-section (*1*), rents payable by a cultivator to his superior holder in such area shall be adjusted in accordance with section 84-A of the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

11. (*1*) If any cultivator contravenes an order made under section 3, 4, 5 or 6, he shall be punishable with fine which may extend to fifty rupees in relation to every acre or less of land in respect of which the order is contravened.

Explanation.—If the cultivator is a company or a joint family, the principal officer of such company or the *karta* of the joint family, as the case may be, shall be deemed to be the cultivator.

(*2*) Any Court trying such contravention may direct that any crop not being a scheduled foodcrop in respect of which the Court is satisfied that the order has been contravened shall be forfeited to His Majesty or, if the crop has been disposed of, such sum as may be equivalent to the fair value of the crop as may be determined by the Court shall be recovered as an arrear of land revenue.

Delegation of powers.

12. The powers conferred on the Provincial Government under this Act may, subject to such restrictions and conditions as it may impose, be delegated by it in whole or in part to the Commissioners or Collectors.

Power to make rules.

13. (*1*) The Provincial Government may by notification in the Official Gazette make rules for carrying out the provisions of this Act.

(*2*) The rules made under this section shall be made after previous publication.

SCHEDULE I.

Food Grains—

1. Rice.
2. Wheat.
3. Jowar : (*a*) Kharif, (*b*) Rabi.
4. Bajri.
5. Ragi.
6. Maize.
7. Kodra.
8. Barley.
9. Sama.
10. Rala.
11. Vari.

Pulses—

1. Gram.
2. Tur.
3. Pavata.
4. Mug.
5. Math.
6. Udid.
7. Wal.
8. Chavli.
9. Kulthi.
10. Peas.
11. Lentil.
12. Lang.

SCHEDULE II.

1. Cotton.
2. Tobacco.

STATEMENT.

Even excluding the population of the cities, such as Ahmedabad and Bombay, the food produced normally in the Bombay Province is far below what is required to feed its population. Considerable progress was made in some districts by the "Grow More Food" Campaign; but in some districts this progress has not secured a sufficient area under foodcrops in the present year and the area under foodcrops is such that the districts are very heavily in deficit, and have to be provided from outside. With such supplies as may be available from outside the Province, it may, at any time, be impossible to provide food for a district which does not grow enough for itself. It is, therefore, necessary to ensure that in future greater areas shall be devoted to growing food grains, especially in deficit districts, than has hitherto been done.

It is also necessary to maintain the progress made in growing more foodcrops in other districts and to guard against diversion of areas at present under foodcrops to non-foodcrops in future.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.